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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

HAROLD TANNER et al.,

Plaintiffs and Respondents,

v.

COSMO C. CONTE,

Defendant and Appellant.

D041081

(Super. Ct. No. GIN007373)

ORDER MODIFYING OPINION

[Change in Judgment]

THE COURT:

The opinion filed March 12, 2004, is modified as follows:

Replace the disposition (slip opn., p. 11) "The judgment awarding Tanner costs of repair is reversed. The case is remanded for further consideration in light of our opinion herein." with

"The judgment is reversed, in part, as to the award of damages. On remand, the trial court is directed to determine the amount of damages, if any, to which plaintiffs are entitled under the proper measure of damages as set forth in this opinion. In all other respects, the judgment is affirmed."

As modified, the petition for rehearing is denied.

There is a change in the judgment and therefore a change to the disposition noted in the editorial information.

BENKE, Acting P. J.